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OLC 78-5193

18 September 1978

DCI Area

MEMORANDUM FOR:

[redacted] Chairman, Senior Secretarial/Clerical Panel

FROM

[redacted] Assistant Legislative Counsel

SUBJECT

: Displaced Persons

1. [redacted] At the 13 September 1978 meeting of the Senior Secretarial/Clerical Panel you requested memoranda from panel members on the subject of displaced persons. That which follows represents my own views as well as those of the secretaries within the Office of Legislative Counsel. I took the liberty of conducting a poll of the OLC secretaries. Predictably, the poll added considerable perspective to my own views.

2. [redacted] For the purposes of this exercise, I have broken "displaced persons" into five categories and have commented on each of the five categories below:

a. TDYers: The fact of the matter is that no one makes an extended TDY to benefit the "E" Career Service. There is almost always a mixed motivation sometimes personal, sometimes professional, and sometimes both. My poll reflected that mix. Essentially, if we are talking about a short TDY (three months or less), then the position should be held for the TDYer. If the TDY is longer than three months, then the TDYer should have to compete competitively for assignments upon her return. So long as this is made clear to the individual involved prior to her accepting the TDY, equity is served.

b. Those that occupy positions within an office that is abolished: The Agency and the Career Service in question clearly have an obligation to find a new position which is comparable for such an individual -- by directed assignment, if need be. There is precious little room for flexibility here, unless the employee concerned has an egregiously bad file.

c. Maternity leave: My own feeling is that their jobs should be held for them. This is, I believe, consistent with practice in private business and other government agencies. The split in

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my poll is, however, interesting: five checked "Guaranteed the same job they had prior to departure;" three checked "Guaranteed a comparable job;" and three checked "Given equal consideration."

d. and e. LWOP to go to school and/or to accompany spouse: My own view is consistent with commercial practice, which is essentially that such individuals will compete competitively upon their return. There are not any guarantees. I take issue with [] in this regard -- the policy is almost guaranteed to frustrate and mislead. The poll that I ran provided the following results: One person voted for "Guaranteeing the same job;" three voted for "Guaranteeing a comparable job;" and seven voted for "Given equal consideration -- i.e., competing competitively." There really can be no guarantees in this situation -- both for reasons of availability of slots as well as injustice to the individuals who have been toiling in the vineyards during the intervening time periods. If the individual's file is good enough, competitive ranking will serve her well. If not, then perhaps both she and the Agency will be better served if she were to gain employment elsewhere. This seems, and perhaps is, cold -- but once again, a clear explanation of the policy prior to the individual's taking LWOP would go a long way toward ensuring a sense of equitable treatment.

2. [] As the OLC secretaries commented to me, there will inevitably be exceptions to any or all rules established to govern displaced persons. However, policies are needed in this area and the clearer and the simpler the better.

[]
Assistant Legislative Counsel

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OLC:MMP:sf (18 May 1978)

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